

**REMARKS**

By this Amendment, Applicant has rewritten claims 6-8 and 14-18 in independent form. Claims 1-20 are pending.

In the last Office Action, the Examiner rejected claims 1-5, 9-13, 19, and 20 under 35 U.S.C. § 103(a) based on U.S. Patent No. 6,275,959 ("Ransijn"); and indicated claims 6-8 and 14-18 contain allowable subject matter.

**CLAIMS 1-5, 9-13, 19 AND 20**

Applicant requests withdrawal of the rejection of claims 1-5, 9-13, 19, and 20 under 35 U.S.C. § 103(a) based on *Ransijn* because *prima facie* obviousness has not been established with respect to these claims.

To establish *prima facie* obviousness under 35 U.S.C. § 103(a), three requirements must be met. First, the applied references, taken alone or in combination, must teach or suggest each and every element recited in the claims. See M.P.E.P. § 2143 (8th Ed. May 2004). Second, there must be some suggestion or motivation, either in the reference(s) or in the knowledge generally available to one of ordinary skill in the art, to combine or modify the reference(s) in a manner resulting in the claimed invention. *Id.* Third, a reasonable expectation of success must exist. *Id.* Moreover, each of these requirements must "be found in the prior art, and not be based on applicant's disclosure." *Id.*

*Ransijn* discloses a data regeneration circuit including a decision gate for regenerating a symbol stream by comparing an amplitude of individual symbols to a decision threshold and outputting a logic level according to each comparison. *Ransijn*, Abstract. Threshold optimization circuitry dynamically measures first and second

probability distribution points of each symbol, and optimizes the decision threshold applied to the decision gate according to the measurements. *Id.*

For claim 1, *Ransjin* fails to teach or suggest at least "an amplitude detector configured to detect an amplitude of the received signal; a noise power detector configured to detect noise power contained in the received signal; and a controller configured to control a difference between the first and second identification levels to be inversely proportional to an output from said amplitude detector and to be proportional to an output from said noise power detector," as recited in the claim.

Pages 2 and 3 of the Office Action appear to admit that *Ransjin* fails to teach the "amplitude detector . . .," "noise power detector . . .," and "controller . . ." features recited in claim 1, but asserts that *Ransjin* discloses starting operations "based on values received from [an] optical receiver" and that it would have been obvious to include "amplitude and noise power measurements" in view of *Ransjin*'s disclosure at col. 1, lines 39-44. However, col. 1, lines 39-44 of *Ransjin* merely states:

The optical fiber amplifiers used in these systems exhibit so-called amplified spontaneous emission (ASE) noise, which is dominant on the ones level only. As a result, the optimum threshold is skewed towards the zero level and consequently, an adjustment must be made.

This (i.e., col. 1, lines 39-44 of *Ransjin*) does not in any way teach or suggest "an amplitude detector configured to detect an amplitude of the received signal; a noise power detector configured to detect noise power contained in the received signal; and a controller configured to control a difference between the first and second identification levels to be inversely proportional to an output from said amplitude detector and to be proportional to an output from said noise power detector," as recited in claim 1. *Ransjin* makes no mention and does not suggest controlling a difference between the first and

second identification levels to be inversely proportional to an output from the amplitude detector and to be proportional to an output from the noise power detector, as recited in claim 1.

Accordingly, the rejection of claim 1 under 35 U.S.C. § 103(a) based on *Ransijn* is unsupported by the cited reference and should be withdrawn.

For dependent claims 2-5, the rejection under 35 U.S.C. § 103(a) based on *Ransijn* should be withdrawn at least by virtue of their dependence upon allowable claim 1, in addition to the patentable subject matter recited therein.

For independent claim 9, *Ransijn* fails to teach or suggest “an amplitude detector configured to detect an amplitude of the received signal; a noise power detector configured to detect noise power contained in the received signal; and a controller configured to control a difference between the first and second identification levels to be proportional to an output from said noise power detector,” as recited in the claim.

*Ransijn* makes no mention and does not suggest controlling a difference between the first and second identification levels to be proportional to an output from the noise power detector, as recited in claim 9.

Accordingly, the rejection of claim 9 under 35 U.S.C. § 103(a) based on *Ransijn* is unsupported by the cited reference and should be withdrawn.

For dependent claims 10-13, the rejection under 35 U.S.C. § 103(a) based on *Ransijn* should be withdrawn at least by virtue of their dependence upon allowable claim 9, in addition to the patentable subject matter recited therein.

Although independent claims 19 and 20 contain different recitations and have scopes different from claims 1 and 9, the rejection of claims 19 and 20 under 35 U.S.C.

§ 103(a) based on *Ransijn* should be withdrawn for reasons similar to the ones discussed above for claims 1 and 9.

**CLAIMS 6-8 AND 14-18**

Applicant thanks the Examiner for indicating claims 6-8 and 14-18 contain allowable subject matter. Applicant has rewritten claims 6-8 and 14-18 in independent form including all limitations of their respective base claims. Accordingly, claims 6-8 and 14-18 are in condition for allowance.

**CONCLUSION**

Applicant respectfully requests reconsideration of this application and the timely allowance of the pending claims.

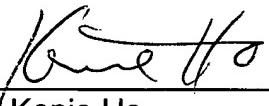
Further, Applicant notes that the Office Action contains numerous statements reflecting apparent assertions concerning the related art and claims. Regardless of whether any such statement is addressed specifically herein, Applicant declines to automatically subscribe to any assertion and/or characterization set forth in the Office Action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: September 15, 2005

By:   
\_\_\_\_\_  
Kenie Ho  
Reg. No. 51,808